

REMARKS

Claim 1 has been amended to correct minor grammatical errors and to correct an antecedent basis problem. No substantive changes have been made.

Claims 1-6 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, claim 1 was rejected because the claim recites a server which transmits a notification to a client system at the server's own initiative only in the preamble, and no direct claim limitations are directed to the server transmitting the notification. Applicant respectfully submits that the failure to directly claim a function performed by the server does not result in the indefiniteness of the claim. Inferential claim is permissible and does not automatically render a claim indefinite. The limitation reciting the performance of the notification function by the server is inferentially claimed by reciting that the client system makes a request "in compliance with a notification which the server unit transmits to the client system on the server unit's own initiative.

Further, Applicants submit that this limitation is not in the preamble of the claim since it follows the transitional word "having." The preamble of claim 1 in its entirety reads only "A message delivery system having". Thus, the subject limitations are not only sufficiently definite for purposes of 35 U.S.C. 112, second paragraph, but they also provide a meaningful limitation to the scope of the claim.

Claim 1 was provisionally rejected on grounds of obviousness-type double patenting over claims 1 and 6 of copending Application No. 09/622,656. Since the rejection is provisional, Applicant elects to defer addressing the rejection until which time that the claims are otherwise in a condition for allowance.

Claims 1-6 were rejected under 35 U.S.C. 102(e) as being unpatentable over U.S. Patent No. 6,314,454 to Wang et al. (hereinafter “Wang”). For the following reasons, the rejection is respectfully traversed and reconsideration of the claims is respectfully requested.

With reference to claim 1, Wang does not teach “a client system acquiring a delivery message from a server unit by requesting to transmit the delivery message in the server unit in compliance with a notification which the server unit transmits to the client system *on the server unit's own initiative*.” Claim 1 is clearly directed to a “push” type email system and excludes a “pull” type system. The term “push,” as used herein, refers to an email system in which a server initially sends a trigger to a client unit, whereas the term “pull” refers to an email system in which the client unit initially sends a trigger to the server unit. The Examiner cites columns 6, lines 45-55 and column 7, lines 17-20 of Wang as teaching these limitations. Applicants respectfully disagree. As described in Wang at column 6, lines 45-55, at some point *receiving account 740 logs into server 340 and is notified that it has mail waiting*. However, as presently claimed, *the server unit transmits a notification to the client system on the server's own initiative*. Further, as described at lines 12-22 of Wang, “server 340 receives a request from receiving account 740 to deliver email messages In response to this request, server 340 . . . delivers the certified email message to receiving account 740 via network interface 610

(step 835)." Nowhere in Wang is there any teaching that the server (340) transmits a notification to a client system on the server unit's own initiative, as required by claim 1.

For all of the above reasons, every limitation of claim 1 is not taught by Wang as required. Therefore, claim 1 is not fully anticipated under 35 U.S.C. 102. Further, since claims 2-6 depend from claim 1, they are not anticipated for the same reasons and the rejection should be withdrawn.

In light of the foregoing, it is respectfully submitted that the present application is in condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. NGB-32911US1.

Respectfully submitted,
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